

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Assessors and County Auditors

FROM: Barry Wood, Assessment Division Director *JBW*

RE: Circuit Breaker – Common Area Clarification

DATE: July 16, 2012

On January 27, 2012, the Department of Local Government Finance (the “Department”) issued guidance regarding clarification of the Circuit Breaker for Manufactured Housing (see http://www.in.gov/dlgf/files/120127_Manufactured_Housing_Circuit_Breaker_Clarification.pdf). In that guidance, it was indicated that the allocation for common areas in apartment complexes, as well as the land between mobile or manufactured homes should receive a 3% cap. However, after further review of the applicable Indiana Code statutes, and other information, that allocation guidance is rescinded.

The following provides clarification on what is considered “common area,” particularly for apartment complexes and manufactured housing communities. Although apartment complexes and manufactured housing communities are diverse and different, they share some similarities. Each property should be reviewed and assessed separately.

There is no definition of common area property in the 2012 Real Property Assessment Guideline; however, in the International Association of Assessing Officers (IAAO) Glossary for Property Appraisal and Assessment (1997), common area is defined as: “The total area within a property that is not designed for rental or sale, which is available for common use by all tenants and owners.” Examples might include, but are not limited to, parks, irregularly shaped green space, drainage areas, streets, lakes, ponds, and community buildings and improvements.

When allocating the circuit breaker to the “common area” (i.e., whether it should receive the 2% or 3% allocation), the definitions in Indiana Code 6-1.1-20.6-2.5 and IC 6-1.1-20.6-4 (see below) provide some direction, but do not supply specific information that can be applied in a universal manner. Hence, the reason each property should be reviewed on an individual basis.

Based on the definition from the IAAO and IC 6-1.1-20.6-4, common areas should receive a 2% allocation.

IC 6-1.1-20.6-2.5

"Nonresidential real property"

Sec. 2.5. (a) As used in this chapter, "nonresidential real property" refers to either of the following:

- (1) Real property that:
 - (A) is not:
 - (i) a homestead; or
 - (ii) residential property; and
 - (B) consists of:
 - (i) a building or other land improvement; and
 - (ii) the land, not exceeding the area of the building footprint or improvement footprint, on which the building or improvement is located.
- (2) Undeveloped land in the amount of the remainder of:
 - (A) the area of a parcel; minus
 - (B) the area of the parcel that is part of:
 - (i) a homestead; or
 - (ii) residential property.
- (b) The term does not include agricultural land.

As added by P.L.146-2008, SEC.218.

IC 6-1.1-20.6-4

"Residential property"

Sec. 4. As used in this chapter, "residential property" refers to real property that consists of any of the following:

- (1) A single family dwelling that is not part of a homestead and the land, not exceeding one acre, on which the dwelling is located.
- (2) Real property that consists of:
 - (A) a building that includes two (2) or more dwelling units;
 - (B) any common areas shared by the dwelling units; and
 - (C) the land, not exceeding the area of the building footprint, on which the building is located.
- (3) Land rented or leased for the placement of a manufactured home or mobile home, including any common areas shared by the manufactured homes or mobile homes.

As added by P.L.246-2005, SEC.62. Amended by P.L.162-2006, SEC.7; P.L.146-2008, SEC.221; P.L.131-2008, SEC.4.

If a taxpayer believes the allocation is incorrect, they have the right to appeal the allocation (see [http://www.in.gov/dlgf/files/110520 - Bailey Memo - Property Tax Assessment and Credit Appeals.pdf](http://www.in.gov/dlgf/files/110520_-_Bailey_Memo_-_Property_Tax_Assessment_and_Credit_Appeals.pdf)).

If you have any questions, please contact Barry Wood, Assessment Division Director, at 317.232.3762 or Bwood@dlgf.in.gov.